

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Notice DAP-177

For: State and County Offices

Livestock Assistance Program (LAP) Questions and Answers

Approved by: Deputy Administrator, Farm Programs



1 Questions and Answers About LAP Procedure and Application Process

A Background

The Agriculture Assistance Act of 2003 authorized a 2001 and 2002 LAP to be carried out using the same criteria established to carry out the 1999 LAP, except that:

- instead of gross revenue, AGI shall be used
- any LCP and CFP payments must be deducted from the LAP payment.

Signup for 2001 and 2002 LAP began August 6, 2003, and is scheduled to end October 24, 2003.

Notice:

- DAP-165 provided State and County Offices with instructions for completing and submitting CCC-654's
- DAP-171 notified State and County Offices that LAP software was included in County Release No. 517
- DAP-173 provided:
 - instructions for entering LAP application data in the automated system
 - a copy of and instructions for CCC-740
 - instructions for accessing, viewing, and printing LAP application data in the automated system.

The National Office has received several questions about LAP procedure and application process. See Exhibit 1.

Disposal Date	Distribution
January 1, 2004	State Office; State Office relay to County Offices

Notice DAP-177

1 Questions and Answers About LAP Procedure and Application Process (Continued)

C Purpose

This notice provides answers to questions:

- received from State Offices about LAP (see Exhibit 1)
- consistent with the 1999 LAP policies.

An amendment to 4-DAP will be issued shortly to update the procedure to reflect 2001 and 2002 LAP.

LAP Questions and Answers

- 1. In the past LAP, eligible equine animals (horses, mules, and donkeys) were limited to the number needed to produce food and fiber on the owner's farm or breeding stock used to produce animals used for human consumption or food and fiber on the owner's farm, such as draft horses, cow ponies, or breeding horses. Does the County Committee (COC) have authority to determine how many "working horses" an operation needs to support the livestock in the operation?**

Yes. If COC has reason to question the number of eligible equine animals listed on an application used for the production of food or fiber on the owner's farm, COC has the authority to limit the number used for that purpose in the operation. If necessary, COC may determine the average number of horses needed for the livestock operation and document in the COC minutes. For example, 3 horses per 100 head of cattle.

- 2. Are horses used in a breeding program for the purposes of selling foals considered eligible for LAP?**

No. Only horses used for human consumption or for production of food or fiber on the owner's farm.

- 3. Are livestock maintained in a confinement farrowing/feeding operation eligible for LAP?**

No. Livestock maintained in confinement year round are not eligible for LAP.

- 4. Are nursing calves under 400 pounds eligible for LAP?**

No, however the cow nursing her young may be eligible.

- 5. Can a bred heifer be classified as a Beef Cow for LAP?**

Yes. For LAP, the Beef Cow definition is "a bovine animal that is kept for breeding, pregnant or lactating, and includes a bred first calf heifer." This definition will be incorporated into 4-DAP.

- 6. Are Yaks considered eligible livestock?**

No.

LAP Questions and Answers (Continued)

- 7. Because of drought conditions, a producer removes cattle from a pasture that was leased for the entire grazing season (not on an AUM basis). The producer then fed the cattle in a feedlot because the producer was unable to find another pasture to lease. The producer incurs a large feed bill because of purchasing additional feed. Will the producer be compensated for the additional purchased feed?**

The producer will not be directly compensated for the purchased feed. LAP is for grazing losses only. LAP is a production loss program, not an economic loss program. LAP does not pay for purchased feed. However, the livestock will continue to be eligible for LAP through the end of the payment period or until sold. Payment will be calculated based on the smaller of either the producer's feed needs or pasture value.

- 8. Does the eligible pasture have to be physically located in an eligible county to be considered eligible to use in the grazing loss calculation?**

Yes.

- 9. Are Federal and State lands, such as FS, BLM, and BIA, used for grazing purposes eligible for LAP?**

Federal and State lands are not treated any differently than privately owned land that is leased. The Agricultural Assistance Act of 2003 mandates the Secretary administer LAP using the same criteria established for the 1999 LAP.

- 10. Is irrigated acreage eligible for LAP?**

No. Pasture or grazing land irrigated in 2001 or 2002, as applicable, is not considered eligible for LAP. The Agricultural Assistance Act of 2003 mandates the Secretary administer LAP using the same criteria established for the 1999 LAP.

- 11. DAP-173, Exhibit 1, item 10A Note provides "Land normally grazed after the final cutting of hay may be included." In some areas, hay land may be irrigated; however, with the drought and if the water usage was restricted, this hay land may not have been irrigated to the normal extent or not at all. After the hay is cut, any irrigation that did occur stopped. Can this re-growth or after-math that may or may not have been irrigated and that will be grazed be considered eligible grazing land for a producer?**

No. See answer to question number 10.

- 12. If a producer has both nonirrigated and irrigated pastures used in a grazing program, shall these irrigated acres be included with the nonirrigated grazing acres on the producer's application even though there were no water restrictions placed on the producer?**

No. See answer to question number 10.

LAP Questions and Answers (Continued)**13. Are pastures, including private and Federal- and State-owned lands, leased on an AUM basis eligible for LAP?**

No. The Agricultural Assistance Act of 2003 mandates the Secretary administer LAP using the same criteria established for the 1999 LAP.

14. John Brown leased pasture “A” on an AUM basis. The pasture normally provided sufficient grazing for his livestock. However, in 2002, the pasture “A” did not provide sufficient grazing for the normal 6-month grazing season, and John Brown had to rent pasture “B” and move the livestock to pasture “B”. John Brown paid only for AUM’s he actually received in both pasture “A” and pasture “B”. Can either pasture “A” or “B” leased on an AUM basis be included on John Brown’s 2002 LAP application?

No. See answer to question number 13.

15. Can pasture acres physically located in a county that is not eligible for LAP be included on a producer’s CCC-740?

No. Pasture has to be physically located in an eligible county to be eligible for LAP.

16. Instructions for CCC-740, item 10 C provides “List normal pasture acreage”. Should “normal pasture acreage” include irrigated acres that are normally used as pasture?

No. See answer to question number 10.

17. Notice DAP-165, paragraph 4 provides the following calculation to determine prorated acreage for short term grazing: “divide the days the pasture is grazed by the number of days in the payment period for that type of pasture.” Is this correct?

No. The procedure in Notice DAP-165, subparagraph 4 F, about the calculation for prorating acreage is incorrect.

To determine prorated acreage divide the number of days the pasture is grazed by the number of days in the LAP crop year, then multiply the resulting factor times the number of acres for the applicable pasture.

18. Should County Offices be requesting pasture leases from every producer to ensure that the producer requesting LAP is eligible?

If COC questions the eligibility of the applicant or the data submitted to make an eligibility determination, COC has the authority to request additional documentation.

LAP Questions and Answers (Continued)**19. The LAP software will not allow the entry of a general partnership or joint venture identification number. How can either of these entities be entered into the software?**

For 2001 and 2002 LAP, applications must be submitted at the member level for general partnerships and joint ventures. Accordingly, each member of a general partnership or joint venture must submit a separate application for the member's respective share of the general partnership or joint venture. General partnership and joint venture member level data is required for 2001 and 2002 to ensure correct reductions for LCP and CFP payments.

For corporations, limited liability partnerships, limited liability companies, estates, and other similar entities, the LAP application shall be entered at the entity level (not the member level).

20. Where is CCC-740 filed for LAP, in the livestock operation headquarters county or the county where the pasture is located?

For LAP, CCC-740 is filed in the county where the eligible pasture is physically located. The term "livestock operation headquarters" was used specifically for the Livestock Compensation Program only. Also see question 22.

21. Notice DAP-173, subparagraph 2 A provides the producer "shall" complete CCC-740 for both years. Subparagraph 2 B provides that producers "may" complete CCC-740 for both years. Can a producer request to file an application for only 1 year if the county is eligible for both years?

If the county is eligible for both years, the producer shall complete CCC-740's for both years. Unless the amount of assistance is calculated for each year, the producer will not know which year will provide the highest benefit. If the producer refuses to complete an application for both years, the County Office shall request the producer sign a statement to that effect so documentation is on file indicating it was the producer's decision.

22. A producer's farm is administratively located in a county ineligible for LAP, but the producer has pasture physically located in a county that is eligible for LAP. Where does the producer file the LAP application?

The producer may do either of the following.

- Complete CCC-740 in the ineligible county for the grazing or pasture land physically located in the eligible county. That county shall FAX CCC-740 to the eligible county to make determinations and data load the information into the automated system.
- File CCC-740 in the eligible county.

Follow 3-CM, paragraph 25, to create a generic farm for land physically located in an eligible county but administered in an ineligible county. For tracking purposes, County Office should enter the farm number on CCC-740.

LAP Questions and Answers (Continued)

- 23. John Henry is an eligible producer for LAP as an individual with 100 percent share in an operation. John Henry is also a member of a joint operation with a 25 percent share. Should John Henry file 2 separate applications with the same identification number or 1 application that includes the livestock and pasture applicable to his percent share of each operation?**

The LAP software will only allow 1 application to be entered per identification number per county. The producer shall complete 1 application which includes the livestock and pasture applicable to his percent share of each operation. The percentage of loss shall be prorated applicable to the grazing acres for each operation.

- 24. Mary Smith is an eligible producer for LAP as an individual with 100 percent share in an operation. Mary Smith is also a shareholder in a corporation. Do Mary Smith and the corporation file 2 separate applications?**

Yes, if both Mary Smith and the corporation elect to apply for LAP benefits, 2 separate applications shall be filed. Mary Smith shall file 1 application for the operation in which she has 100 percent interest. The corporation shall file a separate application for the operation in which it has an interest.

- 25. A producer has eligible pastures in 2 eligible counties. The livestock are grazed in 1 county for a period of time, and then the same livestock are moved to the other county for grazing. Should the number of livestock be prorated for the period of time in each county for each application?**

Yes.

- 26. Is the FSA-526 (AGI form) currently on file for a producer for DCP, effective for 2003, acceptable for LAP?**

Yes. If FSA-526 is not on file, FSA-526 shall be filed, effective for 2003.

- 27. What if a member of an entity has not completed FSA-526, or is not eligible because of AGI, will the software recognize that AGI flag and reduce the payment by the percentage amount of the entity that is not eligible?**

At this time the payment software is being developed and this concern will be addressed in the development process.

- 28. How are buffalo or beefalo recorded on CCC-740 and in the software?**

Enter the livestock numbers for buffalo and beefalo under beef as applicable to the weight and cow or bull.

LAP Questions and Answers (Continued)**29. Can a county that has been notified by their State Office that they are eligible for LAP for 1 or both years take manual applications until the LAP software is accessible?**

Yes. Once a County Office has been notified it is eligible for LAP, the County Office shall process CCC-740's. CCC-740 will always need to be completed manually and signed by the producer before entering the data into the automated system.

When the data from CCC-740 is entered into the LAP software, an automated application is generated showing the pasture and livestock information and a preliminary benefit amount subject to the reconciliation with other counties and, if applicable, a national factor. The automated application is the document that is approved or denied by the approving authority.

30. Adams County is combined with Johns County. For 2002, Adams County is eligible for LAP and Johns County is not eligible for LAP. COC does not want to submit Adams County for approval because of the problems that might arise from producers in Johns County. Does COC have authority to not request LAP eligibility for Adams County if the documentation clearly shows Adams County is eligible?

No. Notice DAP-165 instructs County Offices to prepare and submit CCC-654's to STC for each year (2001 and 2002). The County Office personnel shall fully explain to the producers the reasons why 1 county meets the LAP eligibility requirements and the other county does not meet the LAP eligibility requirements.

31. Do the pastures need to be certified on FSA-578 to approve a LAP application?

No. However, if the producer certified eligible grazing acreage on FSA-578, transfer the eligible acres to CCC-740.

32. The producer certifies to the accuracy of pasture acreage reported on CCC-740. Is this all the certification that is required for LAP?

Yes. Updated spot check procedures for LAP will be incorporated in 4-DAP.

33. Producers are to certify to the grazing loss percentage for each type of grazing. COC's are to review the producer's certified loss to determine whether the producer's certified loss is consistent with grazing and other types of losses in the local area. Current procedure does not provide COC with guidance when the grazing loss is questioned. Can COC approve pasture losses for LAP using the same percentage of loss used for those producers who also had NAP?

COC may consider grazing losses established under NAP as a guideline when reviewing a producer's certified grazing loss for LAP. However, a producer's LAP loss percentage may, in most cases, be higher than the producer's NAP loss because the NAP loss percentage is based on the entire growing season; whereas, the LAP loss percentage is based only on the LAP payment period.

LAP Questions and Answers (Continued)

- 34. Mary Green owned 100 cow/calf pairs but did not have control of any pasture. Mary Green negotiated a share lease of the 100 cow/calf pairs with John White on May 1, 2002, which required John White to maintain the 100 cow/calf pairs from May 1 through December 31, 2002, even if the pasture fails. The LAP payment period for the county where the pasture is physically located is June 1 through October 31, 2002. Who is eligible for LAP, Mary Green, John White or neither?**

Because of the 90-day lease/ownership requirement, John White is eligible for LAP beginning August 1 through October 31, 2002. Mary Green did not suffer any loss; therefore, she is not eligible for LAP benefits.

- 35. Are producers who were the eligible producers in 2001 and 2002, but are now deceased, eligible for LAP?**

Follow procedure in 5-DAP, subparagraph 10 B.

- 36. Can an eligible producer receive LAP and NAP benefits on the same grazing loss?**

Yes, provided all the requirements for the applicable program are met.

- 37. Are producers found out of compliance under LCP ineligible for LAP?**

We have no authority to consider the producer ineligible for LAP because of noncompliance in LCP. However, it is recommended the producer be considered for spot check.

- 38. Can State Offices access LAP software?**

State Office personnel can obtain applicable files from an eligible LAP county within the State to use as a training county on the State Office automated system.

- 39. Will the LAP software accept more than 1 application for the same producer in the same county?**

No. See answer to question numbers 19, 23, and 24.

- 40. Is the LAP software reading the LCP payments and CFP credits recorded in the automated system of the County Office where the producer is applying for LAP?**

The LAP software automatically reduces the estimated LAP payment amount by the amount of LCP and CFP recorded for the producer in the automated system only in the county in which the LAP application is being entered. The National Office is developing a report to assist State and County Offices in identifying all LCP and CFP payments issued to a producer as well as amounts reduced from LAP payments.

The report will show LCP and CFP payments, reduced to the member level of a partnership and joint venture, even if the LCP or CFP application was filed by the joint venture or partnership.

LAP Questions and Answers (Continued)

- 41. For multi-county producers, how will a County Office know if CFP and LCP deductions were taken from another county LAP request for that producer?**

See answer to question number 40.

- 42. A County Office determines that an eligible producer received \$40,000 or more from CFP and LCP. Accordingly, the producer shall not receive any payment under LAP because of the \$40,000 payment limitation. Should the County Office approve the producer's LAP application?**

Yes, the LAP application shall be approved, provided all eligibility requirements are met, even though payments will not be earned.

- 43. Producer was eligible under LCP for \$60,000 and was paid \$40,000 (limited by payment limitation). The same producer is eligible for \$50,000 under LAP. Do we apply the \$40,000 payment limitation for LAP minus \$40,000 of LCP, or do we subtract the \$40,000 LCP from the \$50,000 eligible under LAP?**

The payment limitation for LAP is \$40,000. All LCP and CFP amounts received by the producer shall be reduced from the amount the producer would receive under LAP after payment limitations are applied. In this case, the producer would not receive any LAP payment. The LAP payment limitation is applied automatically by the LAP software.

- 44. Should the County Office enter "R" for refused in the LAP software when it is obvious that the producer will not get a LAP payment because of the LCP and CFP setoffs; or, if filing an application for 2001 and 2002 in a county, enter "R" for the year the producer cannot receive LAP payment?**

No. If the producer meets LAP eligibility requirements, the automated application shall be approved in the LAP software. If a producer files a LAP application for both 2001 and 2002 in a county, the automated system will allow only 1 application to be approved. Do not enter "R" for refused in either application unless the producer is actually refusing payment for an approved application. All LAP applications will be uploaded and data used to determine applied setoffs.

- 45. Does the LAP software assign or print an "Application Number" on the application?**

No. It is not necessary to have an application number.

- 46. AD-1026 and CCC-502 is required for a producer to be eligible to obtain LAP benefits. For what year (2001, 2002, or 2003) must AD-1026 and CCC-502 be filed?**

AD-1026 and CCC-502 applicable to the year for which LAP benefits are requested must be on file.

- 47. Is insect infestation alone an eligible disaster condition for LAP?**

No.

LAP Questions and Answers (Continued)

48. May a producer elect a 2001 LAP application for approval in 1 County Office, and elect a 2002 LAP application for approval in a different County Office?

Yes. Producers who file a LAP application for both 2001 and 2002 in the same county must elect which year (2001 or 2002) to be approved. However, a producer may elect a different year in a different county.